

The Impact of Permitted Development Rights for Office to Residential Conversions

a London Councils briefing



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Background

The previous government introduced temporary permitted development rights for office to residential conversions in May 2013. From this date, applicants were permitted to convert existing office accommodation to residential dwellings without seeking planning permission. Instead, applicants were required only to make a 'prior approval' application. This is a light-touch application process by which a local planning authority is permitted only to consider transport and highways impacts, contamination risks and flooding risks.

Under the prior approval process, the local authority has no discretion to consider or apply any other planning policies in determining the prior approval application. This means that, for example, authorities may not seek to enforce minimum space standards or seek affordable housing contributions.

Certain areas of London, including the Central Activities Zone, the Canary Wharf area and Tech City, have been exempted from the permitted development rights. This means that office accommodation in these areas still requires a full planning application to convert to residential use. The government introduced these exemptions in order to protect office accommodation considered to be of particular economic importance. Individual planning authorities may also seek to reimpose the requirement for planning permission in specific areas or premises through an "Article 4" direction. Details on this option are set out below.

The government's position

In summer 2014, as part of its *technical consultation on planning*¹, the coalition government consulted on proposals to make permanent the office-to-residential permitted development rights on their scheduled expiry in May 2016. The government indicated that existing exemptions such as for the Central Activities Zone could be removed at the time the rights become permanent, and replaced with an expanded prior approval procedure by which local authorities would be permitted to "consider the potential impact of the significant loss of the most strategically important office accommodation".

London Councils responded to the consultation, objecting strongly to the proposals to make permanent the office to residential permitted development rights and arguing that London's exemptions should be maintained. The government eventually responded to the consultation in March 2015, indicating that it would "further consider the case for extending the office to residential reforms which are helping provide new homes on brownfield land". It did not bring forward any new regulations at that stage, meaning that the permitted development rights are currently still scheduled to expire in May 2016.

The government has yet to make its intentions clear with regard to any possible extension of permitted development rights beyond May 2016 or the removal of any existing exemptions to the policy.

¹ Department for Communities and Local Government, July 2014

Article 4 directions

The government has stated that, if boroughs are particularly worried about the loss of essential office accommodation in their areas, they may impose an “Article 4” direction to suspend the permitted development rights.

However, this is a cumbersome tool for boroughs which is not appropriate in all circumstances. In particular, applicants are entitled to claim compensation for the cost of applying for any development which would have been subject to permitted development for the first year after the direction is announced. This means that most boroughs that have implemented an Article 4 direction have done so with a year’s delay, during which time more office space and more potential affordable housing contributions were lost.

The government has also retained the right to modify borough Article 4 directions if they are considered to be ‘inappropriate’ or ‘disproportionate’. In the case of the London borough of Richmond, the Secretary of State modified the direction to exempt those premises that had already secured prior approval, which represented a significant proportion of the borough’s office stock.

In the London Borough of Islington, the planning minister announced his intention to cancel the Article 4 direction shortly before it was due to be implemented, on the grounds that it was disproportionate. This gave the borough little time to consider the impact of the cancellation before it was announced or to submit revised proposals, though an alternative agreement was subsequently reached with government to reduce the scope of the direction.

Impact

Greater London has been particularly affected by the introduction of permitted development rights. This is because in many parts of the capital there is a significant differential between office and residential values which, combined with high demand and land scarcities, has created an incentive for landlords to seek conversion of viable and occupied offices without seeking planning permission.

The impact of the permitted development rights on London’s economy has been multi-faceted. Some of the key consequences include:

- Loss of key office accommodation: figures submitted by London boroughs indicate that approval has been granted for **at least 100,000 sq m of wholly occupied office floorspace** between May 2013 and April 2015, and **834,000 sq m total office floorspace**.
- Loss of occupied space: the existing permitted development rights make no distinction between occupied and vacant office accommodation, and allow for no consideration of the impact of the loss of key office space.
- Increase in office rents: some boroughs have reported that permitted development rights have had an impact on land values for scarce office stock, threatening the viability of office redevelopment and refurbishment even in areas where there is clear demand.

- Reducing viability of local office markets: in outer London in particular, a critical mass of office accommodation is being lost, reducing the viability of economic centres and the availability of neighbourhood office accommodation such as dentists' surgeries. Parts of outer London such as Richmond-upon Thames are particularly vulnerable to conversions through permitted development given the substantial differential between office and residential values in such areas. Richmond borough alone has seen at least **57,000 sq m of office floorspace** approved for conversion to residential use.
- Introduction of poor quality new housing: London Councils supports the need for a significant increase in housing supply in the capital, but this should not be achieved at the cost of producing poor-quality residential accommodation. As residential conversions are no longer required to be plan-compliant, many unsustainable and poor quality schemes have been brought forward, with the local planning authority having no power to ensure they meet basic standards such as minimum space and adequate light and ventilation.
- The loss of new affordable housing supply: a number of large office buildings have been approved for conversion through the policy which, had they gone through the planning process, would have been a significant source of either new affordable housing or contributions towards offsite provision. Figures collated by London boroughs indicate that prior approval has been granted for the conversion of at least **7,000** new dwellings in schemes of 10 units or more. Had this number of homes been approved through the planning system, they would typically be expected to support the delivery of as many as 1,000 new affordable homes, or equivalent Section 106 developer contributions on other sites.

Headline figures

The following information is based on data supplied to the Greater London Authority by the London boroughs up to May 2015. It is not a comprehensive record of conversions undertaken by permitted development rights, but gives a clear picture of the amount of office accommodation in London which has been approved for conversion under the rules.

- At least **2,639** office to residential prior approval applications have been received by London boroughs between May 2013 and April 2015.
- Approval has been granted for at least **16,600** new dwellings through office-to-residential permitted development rights since May 2013.
- Prior approval has been granted for at least **322** fully occupied office spaces across London – around **39 per cent** of those approvals granted for which occupancy information is available.
- Office floor space information is available for 1,232 prior approvals. The floor space lost through these schemes totals **834,000 sq m**, or around 675 sq m per scheme.

- The largest single space to have received approval for conversion is Delta Point in Croydon town centre. If converted, this will see **29,000 sq m** of office space converted to **348** residential dwellings.
- Had this gone through the planning process it alone could have delivered more than 50 new affordable homes on a conservative estimate.
- At least 12 other schemes of 90 units or more have been granted permission for residential conversion since May 2013, with at least **55,000 sq m** of office space being lost through these 12 schemes alone.
- Eight of these office spaces were partly occupied and two were fully occupied (one comprising **7,500** sq m of office space).
- Richmond-upon-Thames has seen the highest number of office to residential prior approval applications in London, with prior notification being received for more than 360 conversions.
- Richmond has been required to grant approval for conversions amounting to around 56,000 sq m of office space.
- Eleven boroughs have reported at least 10 separate fully occupied office spaces being approved for conversion. Barnet has seen the most of all, with 40 spaces occupied spaces being approved for conversion.

Case studies – loss of office accommodation and affordable housing

Richmond upon Thames

Richmond-upon-Thames has received by some distance the highest number of prior approval applications of any London borough, with 360 applications having been received by March 2015. The borough estimates that it has lost around 20 per cent of the office space in its area through the policy, the equivalent of around 57,000sq m of office space to be converted to 693 residential units. The borough estimates that these conversions will displace around 3,150 local jobs. It has also made it more difficult for the local voluntary sector to secure suitable accommodation in the area.

The introduction of permitted development rights has reduced opportunities for business development in the borough, particularly for small IT firms which the borough has been seeking to promote. One such company was required to place its office equipment into storage and to make three members of staff redundant while it sought new accommodation, owing to the landlord's desire to convert its long-standing premises into one-bedroom flats.

A significant proportion of the prior approval applications received are for office spaces of 1,000 and 2,500 sq m, for conversion to residential schemes of between 10 and 25 dwellings. These are the kind of spaces which the borough had been using to promote itself as a location for smaller firms in the IT sector and which have now been significantly diminished by office to residential conversions. This has had countervailing impacts on rents (which have increased as accommodation has become scarcer) and on

the viability of the office market as small businesses begin to look elsewhere for more widespread and affordable accommodation.

Barnet

The owner of the **Premier House** block in Edgware town centre sought prior approval for conversion of around 7000 sq m into 112 units. Once prior approval had been granted, 100 businesses were immediately given notice to quit. The borough considered it unnecessary for businesses to be evicted so soon as there was little evidence of activity in subsequent months, though the conversion is now being implemented.

The site is considered to be strategically important to the economy of Edgware and Barnet borough, and the borough had worked with the owners of such sites to develop a Town Centre Strategy in June 2013. The borough has also introduced a Town Team in Edgware to support development of the local economy. The loss of key office accommodation undermines these objectives.

Barnet has also been required to grant prior approval to nine other schemes of over 1000 sq m. Overall, it has been required to approve 109 prior approval applications, including a total of 40 fully occupied office spaces – more than any other London borough. This amounts to a total loss of at least 53,000 sq m of office accommodation.

Croydon

The London Borough of Croydon has been required to grant prior approval for the conversion of over 99,000 sq m of office space, to be converted to a total of 1,705 residential units if all schemes are completed. If these units had gone through the planning system it is likely they would have supported the delivery of between 256 and 853 affordable housing units alone.

The vast majority of the prior approval schemes to have been approved in Croydon do not meet the floorspace requirements set out in the London Plan and almost none have any provision for private or communal amenity space.

Proposed schemes include:

- **Croydon House**, with 34 very small units (the smallest being just 13.4 sq m) and no affordable housing
- **Cygnets House**, a wholly occupied office block to be converted to 71 units of between 20 and 25 sq m with no outdoor amenity space
- **Brighton Road**, an office block in a shopping parade with units proposed at around 16 sq m

Islington

In the first 18 months following the introduction of permitted development rights for office to residential conversions, 75 applications for prior approval were granted by the London Borough of Islington for a total of just over 700 residential units. Over two thirds of residential units to be created are studio and one-bedroom flats, with no ability for the borough to secure affordable housing.

Prior approvals granted to date are likely to result in a loss of 53,000 sq m of office space with the ability to accommodate around 4,500 jobs. The borough estimates that over half of the floorspace for which prior approval was granted was occupied.

Prior to the introduction of permitted development rights, applications were received for the conversion of offices to residential accommodation amounting to an average of 45 units per year. The borough believes that the principal driver behind the increase since May 2013 has been the removal of any ability for it to seek planning obligations from developers, in particular contributions to affordable housing. Cabinet member for housing James Murray said, "small businesses and charities have already been evicted from their offices to make way for bedsits."

Major schemes to have been approved through permitted development rights in Islington include

- **Archway Tower**, a conversion to 118 private rented units described by the council as "sub-standard bedsits" with no outside accommodation. As the council was not able to apply local plan policies, it was not able to negotiate with the developer in relation to its 50 per cent target for affordable housing on new developments.
- **Whittington House**, a fully occupied office building on Holloway Road, one of the first to secure approval for office-to-residential conversion through permitted development rights. The businesses and charities occupying the building, including a deaf charity, had signed new leases eight months before they were given notice to leave, having previously been advised that the building was no longer on the market. The conversion resulted in the development of 39 flats, which could have secured an equivalent contribution to approximately 19 new affordable homes through the planning system. Most of the businesses who were evicted have left the borough.

Camden

The London Borough of Camden has received a total of 195 prior approval applications up to the end of February 2015, of which it was required to grant approval to 114. The approvals could lead to the loss of approximately 57,000 sq m of floorspace.

A previous study commissioned by the borough in summer 2014 estimated that prior approvals up to that date had resulted in the loss of approximately 2,570 jobs or over 12 per cent of the total in the study area.

The borough is a major employment centre and is forecast to see an increase in demand for office floorspace of around 615,000sq m between 2006 and 2026. Given this demand, a consequential effect of the permitted development rights is also likely to be increased rents for businesses.

Loss of office space in the borough includes **Linton House**, Highgate Road - a former factory hosting a range of businesses including architects, a dance school and film businesses. Approval was granted for 54 new residential dwellings with the loss of 3,900 sq m of occupied office space. The secretary of Kentish Town Neighbourhood Forum

noted that such spaces were being lost as office accommodation owing to the vast differential in value between office and residential uses in the area.

Lambeth

The Waterloo and Vauxhall areas of Lambeth are currently exempt from permitted development rights as they fall within the Central Activities Zone (CAZ). Lambeth applied for similar exemptions for its key industrial and business areas and major town centres, but these were refused.

Since the temporary permitted development rights were introduced in May 2013, some 168 prior approval applications have been received for the non-CAZ part of Lambeth, resulting in the potential loss of over 40,000m² employment floor space for the creation of 610 new residential units. The council had no control over the quality of this new accommodation.

Along with the lost employment space, Lambeth has also foregone potential for approximately 150 affordable housing units that it was unable to secure through the prior approval process.

If the CAZ exemption were to be removed, the borough risks an even more severe loss of office accommodation. The CAZ in Lambeth accounts for 28% of all existing B1a office floorspace in the borough, which equates to over 13,300 jobs. Waterloo alone contains over half of Lambeth's current jobs and is a major office location.

Much of the forecast growth in jobs in the borough will also be in sectors that require B1a office floorspace. The council's emerging Employment Land Review 2015 suggests that Lambeth will require an additional 174,000m² B1 floorspace between 2013 and 2031. Much of this will be needed in the CAZ. Vauxhall is part of the Nine Elms Battersea Opportunity Area and is the largest area of redevelopment in Central London, expected to deliver some 22,000 new jobs overall. Most of these will be office-based jobs at risk under the loss of the CAZ exemption.

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